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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-574*

13 **SOO-YOUNG LEE**
14 **1359 Dornell Street**
15 **Upland, CA 91786**

A C C U S A T I O N

16 **Registered Nurse License No. 390256**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs. On or about August 31, 1985, the Board of Registered Nursing issued
23 Registered Nurse License Number 390256 to Soo-Young Lee (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on October 31, 2014, unless renewed.

26 **JURISDICTION**

27 2. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

3. Section 22 of the Code states:

"(a) 'Board' as used in any provisions of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) Whenever the regulatory program of a board that is subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a 'bureau.'"

4. Section 118, subdivision (b), of the Code provides that the suspension/ expiration/ surrender / cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 150 of the Code states: "The department is under the control of a civil executive officer who is known as the Director of Consumer Affairs."

6. Section 477 of the Code states:

As used in this division:

"(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) 'License' includes certificate, registration or other means to engage in a business or profession regulated by this code."

7. Section 2708.1 provides: "Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

8. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an

1 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
2 Nursing Practice Act.

3 9. Section 2761 of the Code states in pertinent part:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an
5 application for a certificate or license for any of the following:

6 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

7 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
8 functions."

9 10. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
11 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
12 Code, the Board may renew an expired license at any time within eight years after the expiration.

13 11. California Code of Regulations, title 16, section 1442, states:

14 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
15 the standard of care which, under similar circumstances, would have ordinarily been exercised by
16 a competent registered nurse. Such an extreme departure means the repeated failure to provide
17 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
18 situation which the nurse knew, or should have known, could have jeopardized the client's health
19 or life."

20 12. California Code of Regulations, title 16, section 1443, states:

21 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
22 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
23 exercised by a competent registered nurse as described in Section 1443.5."

24 13. California Code of Regulations, title 16, section 1443.5 states:

25 "A registered nurse shall be considered to be competent when he/she consistently
26 demonstrates the ability to transfer scientific knowledge from social, biological and physical
27 sciences in applying the nursing process, as follows:
28

1 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
2 and behavior, and through interpretation of information obtained from the client and others,
3 including the health team.

4 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
5 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
6 for disease prevention and restorative measures.

7 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
8 treatment to the client and family and teaches the client and family how to care for the client's
9 health needs.

10 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
11 subordinates and on the preparation and capability needed in the tasks to be delegated, and
12 effectively supervises nursing care being given by subordinates.

13 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
14 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
15 communication with the client and health team members, and modifies the plan as needed.

16 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
17 health care or to change decisions or activities which are against the interests or wishes of the
18 client, and by giving the client the opportunity to make informed decisions about health care
19 before it is provided."

20 14. California Code of Regulations, title 16, section 1444, states:

21 "A conviction or act shall be considered to be substantially related to the qualifications,
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
24 safety, or welfare. . . ."

25 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 Patient A:

4 16. Respondent worked at Kaiser Fontana as a Labor and Delivery nurse for
5 approximately nineteen years from 1989 until 2008 on the 7 am to 7 pm shift. On June 18, 2008,
6 a 19 year old patient (Patient A) at 26 weeks gestation with her first fetus was admitted to Kaiser
7 with a diagnosis of Acute Pyelonephritis. That same day Patient A was transferred to ICU from
8 the ante partum unit because she developed acute respiratory distress syndrome (ARDS).
9 Respondent was assigned to care for Patient A during the day shift on June 19, 2008 for fetal
10 monitoring.

11 17. At 1115 Respondent documented in the Multidisciplinary Notes that she applied the
12 fetal monitor. At 1130 the notes indicate that Dr. Rudolf, M.D. was called and saw Patient A due
13 to contractions. The physician ordered Terbutaline 0.25 mg subcutaneous that Respondent
14 administered at 1145 per the notes. At 1155 the physician then ordered the patient transferred to
15 a "Basic Care Telemetry Bed".

16 18. At 1200 Respondent documented that Patient A was not having contractions and that
17 Patient A denied feeling any contractions. Respondent's notes at 1230 indicate that contractions
18 were 6-7 minutes apart and that Patient A denied feeling them. At 1245 Respondent charted that
19 the physician was notified.

20 19. Respondent's notes and handwriting are unclear whether a Fetal Fibronectin Test
21 (fFN) was done at 1245 or 1330. Respondent noted in the chart at 1400 that lab results were
22 pending and that contractions were 7-8 minutes apart. Lab results at 1450 showed a positive fFN
23 with the physician notified at 1500.

24 20. The physician returned at 1520 with new orders for: Indocin 50 mg orally then and
25 thereafter 25 mg orally every 6 hours; continuous fetal heart rate and uterine activity monitoring;
26 and Monistat 200 mg PV.

21. Respondent noted that she administered Indocin .50 mg. at 1530 to Patient A. The 1600 note indicated that the patient was sleeping. The 1700 entry by Respondent indicated there were no contractions. At 1917 the report was received by the next shift nurse.

Patients B and C:

22. On July 1, 2008, Linda Rudolph, RN was asked to cover for Respondent, who was required to attend a meeting from approximately 1420 to 1525 with Brenda Rohrbach, a manager at Kaiser after another registered nurse, Denise Indermuehle had reported to her that Respondent was missing on occasion when she was supposed to be monitoring Patient A on June 19.

23. When Rudolph came to cover for Respondent, she discovered at approximately 1445 that Respondent had "pre-charted" vital signs for Patients B and C, a newly post-partum female and her infant, with entries between 1445 and 1515. The chart notes by Respondent are inconsistent and unclear as they document at 1330 the adult female was pushing; at 1455 delivery and at 1515 Recovery. However, another chart entry documents that the vital signs on the infant began every 30 minutes at 1415.

24. At a subsequent meeting on July 3, 2008 with her manager, when confronted with the allegations that she had "pre-charted" vital signs for Patients B and C on July 1 when she was not present and in a meeting with her manager, Respondent admitted that she had pre-charted the patients' records.

FIRST CAUSE FOR DISCIPLINE

(Incompetence)

25. Respondent is subject to disciplinary action under sections 2750 and 2761, subd. (a)(1) in conjunction with California Code of Regulations, title 16, section 1443, in that she lacked possession of or failed to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse with regard to her "precharting" the patient records for Patients B and C.

26. The immediate period following delivery is very important for both mother and baby. The post-partum female is at risk for hemorrhage and the infant is at risk for both cold stress and respiratory distress. The standard of care is that close monitoring of mother and infant is


1 required. By "pre-charting" vital signs on Patients A and B when she was not present to actually
2 monitor and take the vital signs, Respondent failed to meet the standard of care to a
3 newly delivered mother and infant by not taking their vital signs and in fact, intentionally not
4 doing so. Respondent's act and omission placed the patients at potential risk for harm during a
5 vulnerable time in their course of recovery.

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Registered Nursing issue a decision:

- 9 1. Revoking or suspending Registered Nurse License Number 390256, issued to Soo-
10 Young Lee;
- 11 2. Ordering Soo-Young Lee to pay the Board of Registered Nursing the reasonable costs
12 of the investigation and enforcement of this case, pursuant to Business and Professions Code
13 section 125.3;
- 14 3. Taking such other and further action as deemed necessary and proper.

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16 DATED: JANUARY 19, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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